



# IMMIGRATION RESOURCE MATERIALS

**Supplemental Materials**  
**January 24, 2011**

## Immigration Resource Materials

Supplemental Materials – January 24, 2011

The materials in this resource packet were compiled by Senate professional staff and are designed to provide information on a variety of issues related to immigration and immigration policy. These materials supplement the immigration resource materials distributed in early January, which are available on the website of the Florida Senate (<http://www.flsenate.gov/data/Committees/Senate/Immigration/Immigration%20Resource%20Materials.pdf>).

Speakers at any scheduled immigration meetings may submit materials specific to the subjects of their respective presentations. Those latter materials will be distributed separately from this resource packet.

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## U.S. Citizenship and Immigration Services

# Temporary Worker

An alien coming to the United States to work for a temporary period of time. The Immigration Reform and Control Act of 1986 and the Immigration Act of 1990, as well as other legislation, revised existing classes and created new classes of nonimmigrant admission. Nonimmigrant temporary worker classes of admission are as follows:

1. H-1A - registered nurses (valid from 10/1/1990 through 9/30/1995);
2. H-1B - workers with "specialty occupations" admitted on the basis of professional education, skills, and/or equivalent experience;
3. H-1C - registered nurses to work in areas with a shortage of health professionals under the Nursing Relief for Disadvantaged Areas Act of 1999;
4. H-2A - temporary agricultural workers coming to the United States to perform agricultural services or labor of a temporary or seasonal nature when authorized workers are unavailable in the United States;
5. H-2B - temporary non-agricultural workers coming to the United States to perform temporary services or labor if unemployed persons capable of performing the service or labor cannot be found in the United States;
6. H-3 - aliens coming temporarily to the United States as trainees, other than to receive graduate medical education or training;
7. O-1, O-2, O-3 - temporary workers with extraordinary ability or achievement in the sciences, arts, education, business, or athletics; those entering solely for the purpose of accompanying and assisting such workers; and their spouses and children;
8. P-1, P-2, P-3, P-4 - athletes and entertainers at an internationally recognized level of performance; artists and entertainers under a reciprocal exchange program; artists and entertainers under a program that is "culturally unique"; and their spouses and children;
9. Q-1, Q-2, Q-3 - participants in international cultural exchange programs; participants in the Irish Peace Process Cultural and Training Program; and spouses and children of Irish Peace Process participants;
10. R-1, R-2 - temporary workers to perform work in religious occupations and their spouses and children.

See other sections of this Glossary for definitions of Exchange Visitor, Intracompany Transferee, and U.S.-Canada or North American Free-Trade Agreement classes of nonimmigrant admission.

### Plug-ins



## U.S. Citizenship and Immigration Services

# H-2A Temporary Agricultural Workers

The H-2A program allows U.S. employers to bring foreign nationals to the United States to fill temporary agricultural jobs for which U.S. workers are not available. H-2A nonimmigrant classification applies to aliens seeking to perform agricultural labor or services of a temporary or seasonal nature in the United States on a temporary basis. A U.S. employer (or an association of U.S. agricultural producers named as a joint employer) must file a Form I-129, Petition for Nonimmigrant Worker on a prospective worker's behalf.

To qualify for H-2A nonimmigrant classification:

- The job offered must be of a temporary or seasonal nature
- The employer must demonstrate that there are not sufficient U.S. workers who are able, willing, qualified, and available to do the temporary work
- The employer must show that the employment of H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers
- Generally, a single, valid temporary labor certification from the U.S. Department of Labor must be submitted with the H-2A petition. (A limited exception to this requirement exists in certain "emergent circumstances." See e.g., 8 CFR 214.2(h)(5)(x) for specific details).

### H-2A Program Process

- Step 1: Employer Submits Temporary Labor Certification Application to the U.S. Department of Labor. Prior to requesting H-2A classification from USCIS, the employer must apply for and receive a temporary labor certification for H-2A workers with the U.S. Department of Labor. For further information regarding the temporary labor certification requirements and process, see the "Foreign Labor Certification, Department of Labor" link to the right.
- Step 2: Employer Submits a Form I-129 to USCIS. After receiving a temporary labor certification for H-2A employment from the U.S. Department of Labor (DOL), the employer should file Form I-129, Petition for Nonimmigrant Worker, with USCIS requesting H-2A workers. The DOL approved temporary labor certification must be submitted with Form I-129. (See the instructions to the Form I-129 for additional filing requirements.)
- Step 3: Prospective Workers Outside the United States Apply for Visa and/or Admission. After an employer's Form I-129 is approved by USCIS, prospective H-2A workers who are outside the United States may apply with the U.S. Department of State at a U.S. embassy or consulate abroad for an H-2A visa (if a visa is required) and, regardless of whether a visa is required, apply to U.S. Customs and Border Protection for admission to the United States in H-2A classification.

### H-2A Eligible Countries List

H-2A petitions may only be approved for nationals of countries that the Secretary of Homeland Security has designated, with the concurrence of the Secretary of State, as eligible to participate in the H-2A program.\* The list of H-2A eligible countries is published in a notice in the Federal Register (FR) by the Department of Homeland Security (DHS) on a rolling basis. Designation of countries on the H-2A list of eligible countries will be valid for one year from publication.

Effective Jan. 18, 2011, nationals from the following countries are eligible to participate in the H-2A and H-2B programs: Argentina, Australia, Barbados, Belize, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Fiji, Guatemala, Honduras, Hungary, Ireland, Israel, Jamaica, Japan, Kiribati, Latvia, Lithuania, Macedonia, Mexico, Moldova, Nauru, The Netherlands, Nicaragua, New Zealand, Norway, Papua New Guinea, Peru, Philippines, Poland, Romania, Samoa, Serbia, Slovakia, Slovenia, Solomon Islands, South Africa, South Korea, Tonga, Turkey, Tuvalu, Ukraine, United Kingdom, Uruguay, and Vanuatu. Of these countries, the following were designated for the first time this year: Barbados, Estonia, Fiji, Hungary, Kiribati, Latvia, Macedonia, Nauru, Papua New Guinea, Samoa, Slovenia, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

A national from a country not on the list may only be the beneficiary of an approved H-2A petition if the Secretary of Homeland Security determines that it is in the U.S. interest for that alien to be the beneficiary of such a petition. [See 8 CFR 214.2(h)(2)(iii) and (5)(i)(F)(1)(ii) for additional evidentiary requirements.]

### **Period of Stay**

Generally, USCIS may grant H-2A classification for the period of time authorized on the temporary labor certification (usually authorized for no longer than one (1) year). H-2A classification may be extended for qualifying employment in increments of up to one (1) year. The maximum period of stay in H-2A classification is three (3) years.

An individual who has held H-2A nonimmigrant status for a total of three (3) years is required to depart and remain outside the United States for an uninterrupted period of three (3) months before seeking readmission as an H-2A nonimmigrant. See 8 CFR 214.2(h)(5)(viii)(C) for further details regarding departure requirements.

### **Family of H-2A Workers**

Any spouse and unmarried children under 21 years of age of an H-2A worker may seek admission in H-4 nonimmigrant classification. Family members in H-4 nonimmigrant classification may not engage in employment in the United States.

### **Employment-Related Notifications to USCIS**

Petitioners of H-2A workers must notify USCIS within 2 workdays\* in the case of:

- No show: An alien who fails to report to work within 5 work days of the employment start date on the H-2A petition or within 5 work days of the start date established by the petitioner, whichever is later;
- Absconder: An H-2A worker who fails to report for work for a period of 5 consecutive workdays without the consent of the employer;

- Termination: An H-2A worker who is terminated prior to the completion of agricultural labor or services for which he/she was hired; or
- Early Completion: An H-2A worker who completes the agricultural labor or services for which he/she was hired more than 30 days earlier than the date specified in the H-2A petition.

The following information must be included on the notification:

1. The reason for the notification, (for example, explain that the worker was either a “no show,” “absconder,” “termination,” or “early completion”);
2. The reason for untimely notification and evidence for good cause, if applicable;
3. The USCIS receipt number of the approved H-2A petition;
4. The petitioner’s information, including:
  - Name
  - Address
  - Telephone number
  - Employer identification number (EIN)
5. The employer’s information (if different from that of the petitioner):
  - Name
  - Address
  - Telephone number
6. The H-2A worker’s information:
  - Full Name
  - Date of birth
  - Place of birth
  - Last known physical address & telephone number

Additionally, to assist USCIS with identification of the H-2A worker, USCIS requests that, if available, petitioners also submit each H-2A worker’s:

- Social Security Number, and
- Visa Number,

An employer who fails to comply with these employment notification requirements, or fails to demonstrate good cause for untimely notification, may be required, following notice and opportunity to respond, to pay \$10 in liquidated damages for each instance of noncompliance.

**Please note:** USCIS defers to the DOL’s definition of “workday” which, according to the Fair Labor Standards Act, generally means the period between the time on any particular day when an employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities.

### **How do I notify USCIS?**

Notification should be made to the California Service Center via email or mail at the following addresses.

Email notification is strongly recommended to ensure timely notification.

**California Service Center**

By email: [CSC-X.H-2AAbs@dhs.gov](mailto:CSC-X.H-2AAbs@dhs.gov)

By mail:

California Service Center  
Attn: Div X/BCU ACD  
P.O. Box 30050  
Laguna Niguel, CA 92607-3004

**Fee-Related Notifications to USCIS**

A petitioner, agent, facilitator, recruiter or similar employment service is prohibited from collecting a job placement fee or other compensation (either direct or indirect) at any time from an H-2A worker as a condition of employment.

Petitioners are provided with the opportunity to avoid denial or revocation (on notice) of their H-2A petition if they notify USCIS that they obtained information concerning the beneficiary's payment or agreement to pay a prohibited fee or compensation to any agent, facilitator, recruiter, or similar employment service only after they filed their H-2A petition. This narrow exception does not apply, however, where a petitioner knew or should have known at the time of filing of its H-2A petition that the prospective worker had paid or agreed to pay such recruitment-related fees to any such persons or entities.

Notification of an alien's payment or agreement to pay the prohibited fees to a recruiter, facilitator or similar employment service must be made within 2 workdays of the petitioner gaining knowledge of such payment or agreement.

Petitioners must include the following information in their Fee-Related notification:

1. The reason for the notification;
2. The USCIS receipt number of the approved H-2A petition;
3. The petitioner's information:
  - o Name
  - o Address
  - o Telephone number
4. The employer's information (if different from that of the petitioner):
  - o Name
  - o Address
  - o Telephone number
5. Information about the recruiter, facilitator, or placement service to which the alien beneficiaries paid or agreed to pay the prohibited fee:
  - o Name
  - o Address

**Fees not prohibited are:** the lesser of the fair market value or actual costs of transportation and any government-mandated passport, visa, or inspection fees to the extent that the payment of such costs and fees by the alien H-2A worker is not prohibited by statute or Department of Labor regulations.

**How do I notify USCIS?**

Notification should be made to the California Service Center via email or mail at the following addresses. Email notification is strongly recommended, although not required to ensure timely notification.

**California Service Center**

By email: [CSC.H2AFee@dhs.gov](mailto:CSC.H2AFee@dhs.gov)

By mail:

California Service Center  
P.O. Box 10695  
Laguna Niguel, CA 92607-1095

Last updated: 01/14/2011

[Plug-ins](#)



## U.S. Citizenship and Immigration Services

# H-2B Temporary Non-Agricultural Workers

The H-2B non-agricultural temporary worker program allows U.S. employers to bring foreign nationals to the United States to fill temporary nonagricultural jobs. A U.S. employer must file a Form I-129, Petition for Nonimmigrant Worker, on a prospective worker's behalf.

To qualify for H-2B nonimmigrant classification:

- The employer must establish that its need for the prospective worker's services or labor is temporary, regardless of whether the underlying job can be described as permanent or temporary. The employer's need is considered temporary if it is a one-time occurrence, a seasonal need, a peak-load need, or an intermittent need
- The employer must demonstrate that there are not sufficient U.S. workers who are able, willing, qualified, and available to do the temporary work
- The employer must show that the employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers
- Generally, a single, valid temporary labor certification from the U.S. Department of Labor (DOL), or, in the case where the workers will be employed on Guam, from the Governor of Guam, must be submitted with the H-2B petition. (Exception: an employer is not required to submit a temporary labor certification with its petition if it is requesting H-2B employment in a position for which the DOL does not require the filing of a temporary labor certification application)

### H-2B Cap

There is a statutory numerical limit, or "cap," on the total number aliens who may be provided H-2B nonimmigrant classification during a fiscal year.

Once the H-2B cap is reached, USCIS may only accept petitions for H-2B workers who are exempt from the H-2B cap. For additional information on the current H-2B cap, see the "Cap Count for H-2B Nonimmigrants" link to the right or go to it directly at [www.uscis.gov/h-2b\\_count](http://www.uscis.gov/h-2b_count).

### H-2B Program Process

- *Step 1: Employer Submits Temporary Labor Certification Application to the Department of Labor.* Prior to requesting H-2B classification from USCIS, the employer must apply for and receive a temporary labor certification for H-2B workers with the U.S. Department of Labor (or Guam Department of Labor if the employment will be in Guam).\* For further information regarding the temporary labor certification application requirements and process, see the "Foreign Labor Certification, Department

of Labor" and "Foreign Labor Certification, Guam Department of Labor" links to the right.

- *Step 2: Employer Submits Form I-129 to USCIS.* After receiving a temporary labor certification for H-2B employment from either the U.S. Department of Labor or Guam Department of Labor (if applicable), the employer should file a Form I-129, Petition for Nonimmigrant Worker, with USCIS requesting H-2B workers. The approved temporary labor certification must be submitted with the Form I-129. (See the instructions to the Form I-129 for additional filing requirements.)
- *Step 3: Prospective Workers Outside the United States Apply for Visa and/or Admission.* After an employer's Form I-129 is approved by USCIS, prospective H-2B workers who are outside the United States may apply with the U.S. Department of State at a U.S. embassy or consulate abroad for an H-2B visa (if a visa is required) and, regardless of whether a visa is required, apply to U.S. Customs and Border Protection for admission to the United States in H-2B classification.

\* **Note:** Employers requesting employment in a position that is exempt from the U.S. Department of Labor's temporary labor certification application filing requirement may skip Step 1 in the H-2B process.

### **H-2B Eligible Countries List**

H-2B petitions may only be approved for nationals of countries that the Secretary of Homeland Security has designated, with the concurrence of the Secretary of State, as eligible to participate in the H-2B program\*.

The list of H-2B eligible countries is published in a notice in the Federal Register (FR) by the Department of Homeland Security (DHS) on a rolling basis. Designation of countries on the H-2B list of eligible countries will be valid for one year from publication.

Effective Jan. 18, 2011, nationals from the following countries are eligible to participate in the H-2A and H-2B programs: Argentina, Australia, Barbados, Belize, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Fiji, Guatemala, Honduras, Hungary, Ireland, Israel, Jamaica, Japan, Kiribati, Latvia, Lithuania, Macedonia, Mexico, Moldova, Nauru, The Netherlands, Nicaragua, New Zealand, Norway, Papua New Guinea, Peru, Philippines, Poland, Romania, Samoa, Serbia, Slovakia, Slovenia, Solomon Islands, South Africa, South Korea, Tonga, Turkey, Tuvalu, Ukraine, United Kingdom, Uruguay, and Vanuatu. Of these countries, the following were designated for the first time this year: Barbados, Estonia, Fiji, Hungary, Kiribati, Latvia, Macedonia, Nauru, Papua New Guinea, Samoa, Slovenia, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

\* A national from a country not on the list may only be the beneficiary of an approved H-2B petition if the Secretary of Homeland Security determines that it is in the U.S. interest for that alien to be the beneficiary of such a petition. [See 8 CFR 214.2(h)(2)(iii) and 8 CFR 214.2(h)(6)(i)(E)(2) for additional evidentiary requirements.]

### **Period of Stay**

Generally, USCIS may grant H-2B classification for the period of time authorized on the temporary labor certification (usually authorized for no longer than one (1) year). H-2B classification may be extended for qualifying employment in increments of up to one (1) year.

The maximum period of stay in H-2B classification is three (3) years.

An individual who has held H-2B nonimmigrant status for a total of three (3) years is required to depart and remain outside the United States for an uninterrupted period of three (3) months before seeking readmission as an H-2B nonimmigrant. See 8 CFR 214.2(h)(13)(iv) for further details on departure requirements.

### **Family of H-2B Workers**

Any spouse and unmarried children under 21 years of age of an H-2B worker may seek admission in H-4 nonimmigrant classification. Family members in H-4 nonimmigrant classification may not engage in employment in the United States.

### **Employment-Related Notifications to USCIS**

Petitioners of H-2B workers must notify USCIS within 2 workdays if an H-2B worker is a:

- No show: an alien who fails to report to work within 5 work days of the employment start date on the H-2B petition
- Absconder: an alien who fails to report for work for a period of 5 consecutive workdays without the consent of the employer
- Termination: an alien who was terminated prior to the completion of agricultural labor or services for which he/she was hired; or
- Early Completion: an alien who completes the H-2B labor or services for which he/she was hired more than 30 days early.

As stated in a notice published by DHS in the federal register on December 19, 2008, petitioners must include the following information in their Employment-Related notification:

1. The reason for the notification (for example, explain that the worker was either a “no show,” “absconder,” “termination,” or “early completion”)
2. The reason for untimely notification and evidence for good cause, if applicable
3. The USCIS receipt number of the approved H-2B petition
4. The petitioner’s information
  - Name
  - Address
  - Telephone number
  - Employer identification number (EIN)
5. The employer’s information (if different from that of the petitioner):
  - Name
  - Address
  - Telephone number
6. The H-2B worker’s information:
  - Full Name
  - Date of birth
  - Place of birth
  - Last known physical address & telephone number

Additionally to assist USCIS with identification of the H-2B worker, USCIS requests that, if available, petitioners also submit each H-2B worker’s:

- Social Security Number, and
- Visa Number

### **How do I notify USCIS?**

Notification should be made via email or mail to the USCIS Service Center that approved the I-129 petition.

Email notification is strongly recommended, although not required, to ensure timely notification.

### **California Service Center**

By email: [CSC-X.H-2BAbs@dhs.gov](mailto:CSC-X.H-2BAbs@dhs.gov)

By mail:

California Service Center  
Attn: Div X/BCU ACD  
P.O. Box 30050  
Laguna Niguel, CA 92607–3004 By mail:

### **Vermont Service Center**

By email: [VSC.H2BABS@dhs.gov](mailto:VSC.H2BABS@dhs.gov)

By mail:

Vermont Service Center  
Attn: BCU ACD  
63 Lower Welden St.  
St. Albans, VT 05479

### **Fee-Related Notifications to USCIS**

A petitioner, agent, facilitator, recruiter or similar employment service is prohibited from collecting a job placement fee or other compensation (either direct or indirect) at any time from an alien H-2B worker as a condition of employment.

Petitioners are provided with the opportunity to avoid denial or revocation (on notice) of their H-2B petition if they notify USCIS that they obtained information concerning the beneficiary's payment or agreement to pay a prohibited fee or compensation to any agent, facilitator, recruiter, or similar employment service only after they filed their H-2B petition. This narrow exception does not apply, however, where a petitioner knew or should have known at the time of the filing of its H-2B petition that the prospective worker had paid or agreed to pay such recruitment-related fees to any such persons or entities.

Notification of an alien's payment or agreement to pay the prohibited fees to a recruiter, facilitator or similar employment service must be made within 2 workdays of the petitioner gaining knowledge of such payment or agreement.

Petitioners must include the following information in their Fee-Related notification:

1. The reason for the notification
2. The USCIS receipt number of the approved H-2B petition
3. The petitioner's information
  - o Name
  - o Address
  - o Telephone number
4. The employer's information (if different from that of the petitioner):
  - o Name
  - o Address
  - o Telephone number
5. Information about the recruiter, facilitator, or placement service to which the alien beneficiaries paid or agreed to pay the prohibited fee:
  - o Name
  - o Address

Fees not prohibited are: the lesser of the fair market value or actual costs of transportation and any government-mandated passport, visa, or inspection fees to the extent that the payment of such costs and fees by the H-2B worker is not prohibited by statute or Department of Labor regulations.

### **How do I notify USCIS?**

Notification should be made to the California Service Center via email or mail at the following addresses.

Email notification is strongly recommended, although not required, to ensure timely notification.

#### **California Service Center**

By email: [CSC.H2BFee@dhs.gov](mailto:CSC.H2BFee@dhs.gov)  
By mail:

California Service Center  
Attn: H2B Fee  
P.O. Box 10695  
Laguna Niguel, CA 92607-1095 By mail:

#### **Vermont Service Center**

By email: [VSC.H2BPROPLACEMENT@dhs.gov](mailto:VSC.H2BPROPLACEMENT@dhs.gov)

By mail:

Vermont Service Center  
Attn: BCU ACD  
75 Lower Welden St.  
St. Albans, VT 05479

Last updated: 01/14/2011

Plug-ins

Select Year: 2010 ▾

Go

## The 2010 Florida Statutes

[Title XXXI](#)[Chapter 448](#)[View Entire Chapter](#)

LABOR

GENERAL LABOR REGULATIONS

**448.09 Unauthorized aliens; employment prohibited.—**

(1) It shall be unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.

(2) The first violation of subsection (1) shall be a noncriminal violation as defined in s. [775.08](#) (3) and, upon conviction, shall be punishable as provided in s. [775.082](#)(5) by a civil fine of not more than \$500, regardless of the number of aliens with respect to whom the violation occurred.

(3) Any person who has been previously convicted for a violation of subsection (1) and who thereafter violates subsection (1), shall be guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#). Any such subsequent violation of this section shall constitute a separate offense with respect to each unauthorized alien.

**History.—** ss. 1, 2, 3, ch. 77-250; s. 193, ch. 79-400; s. 82, ch. 91-224; s. 168, ch. 97-103.

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# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 11-02 (Verification of Employment Status)

WHEREAS, Federal law requires employers to employ only individuals eligible to work in the United States; and

WHEREAS, the U.S. Department of Homeland Security's E-Verify system allows employers to quickly verify employee eligibility in an efficient and cost-effective manner;

NOW, THEREFORE, I, RICK SCOTT, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section (1)(a) of the Florida Constitution, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

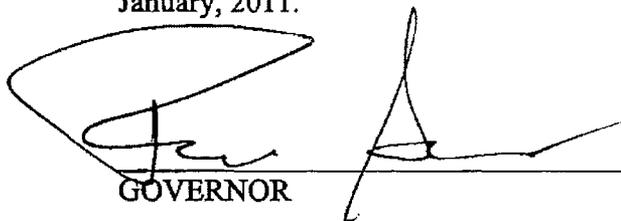
**Section 1.** I hereby direct all agencies under the direction of the Governor to verify the employment eligibility of all current and prospective agency employees through the U.S. Department of Homeland Security's E-Verify system.

**Section 2.** I hereby direct all agencies under the direction of the Governor to include, as a condition of all state contracts, an express requirement that contractors utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of: (a) all persons employed during the contract term by the contractor to perform employment duties within Florida; and (b) all persons (including subcontractors) assigned by the contractor to perform work pursuant to the contract with the state agency.

**Section 3.** Agencies not under the direction of the Governor are encouraged to verify the employment eligibility of their current and prospective employees utilizing the E-Verify system, and to require contractors to utilize the E-Verify system to verify the employment eligibility of their employees and subcontractors.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 4th day of January, 2011.

  
GOVERNOR

ATTEST:

  
SECRETARY OF STATE



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## Immigrant Policy Project January 5, 2011

### 2010 Immigration-Related Laws and Resolutions in the States

(January 1 - December 31, 2010)

State legislatures enacted a record number of laws and resolutions addressing immigration issues in 2010: 46 state legislatures and the District of Columbia enacted 208 laws and adopted 138 resolutions, for a total of 346. An additional 10 bills passed legislatures but were vetoed by governors. During the same period in 2009, 44 states enacted 202 laws and adopted 131 resolutions, for a total of 333. An additional 20 bills were vetoed.

Every state in regular session considered laws related to immigrants or immigration in 2010. State legislators introduced more than 1,400 bills and resolutions in 46 states and the District of Columbia, which is comparable to 2009, when 50 states considered more than 1,500 bills and resolutions pertaining to immigrants. Montana, Nevada, North Dakota and Texas were not in regular session in 2010. Resolutions hit a new high of 138, with 15 of these seeking congressional action.

As in previous years, law enforcement, identification/driver's licenses and employment remained the top issues addressed in state legislation related to immigrants. E-verify legislation was enacted in four states—Georgia, Utah, Virginia and West Virginia. A new area of concern for state legislators in 2010 was child abductions. Alabama, Florida and Tennessee enacted laws to help prevent them.

Arizona's immigration enforcement laws (SB 1070 and HB 2162) received considerable national attention in 2010. These laws added new state requirements, crimes and penalties related to enforcement of immigration laws and were to become effective on July 29, 2010. Before the laws could go into effect, the U.S. Department of Justice sought an injunction arguing that the laws are unconstitutional. On July 28, Judge Bolton granted the request for injunction in part and enjoined the provisions that: allow state law officers to determine the immigration status of anyone during a lawful stop; require individuals to carry their alien registration documents; prohibit unauthorized immigrants from applying for work; and permit a warrantless arrest if there is probable cause the offense would make the person removable from the United States. Arizona Governor Jan Brewer appealed the injunction and arguments were heard by the 9th U.S. Circuit Court of appeals on Nov. 1, 2010. More information on these Arizona laws can be found under the omnibus category, and online at <http://www.ncsl.org/default.aspx?tabid=20263>.

Bills similar to Arizona's were subsequently introduced in six state legislatures— Illinois, Michigan, Minnesota, South Carolina, Pennsylvania, and Rhode Island—but none were enacted.

State laws related to immigration have increased dramatically in recent years:

- In 2005, 300 bills were introduced, 39 laws were enacted and six were vetoed.
- In 2006, 570 bills were introduced, 72 were enacted, six were vetoed, and 12 resolutions were adopted for a total of 84.
- In 2007, 1,562 bills were introduced, 178 were enacted, 12 were vetoed, and 50 resolutions were adopted for a total of 228.
- In 2008, 1,305 bills were introduced, 139 laws were enacted, three were vetoed, and 64 resolutions adopted for a total of 203.
- In 2009, more than 1,500 bills were introduced, 202 laws were enacted, 20 were vetoed, and 131 resolutions adopted for a total of 333.
- In 2010, more than 1,400 bills were introduced, 208 laws were enacted, 10 were vetoed, and 138 resolutions were adopted for a total of 346.

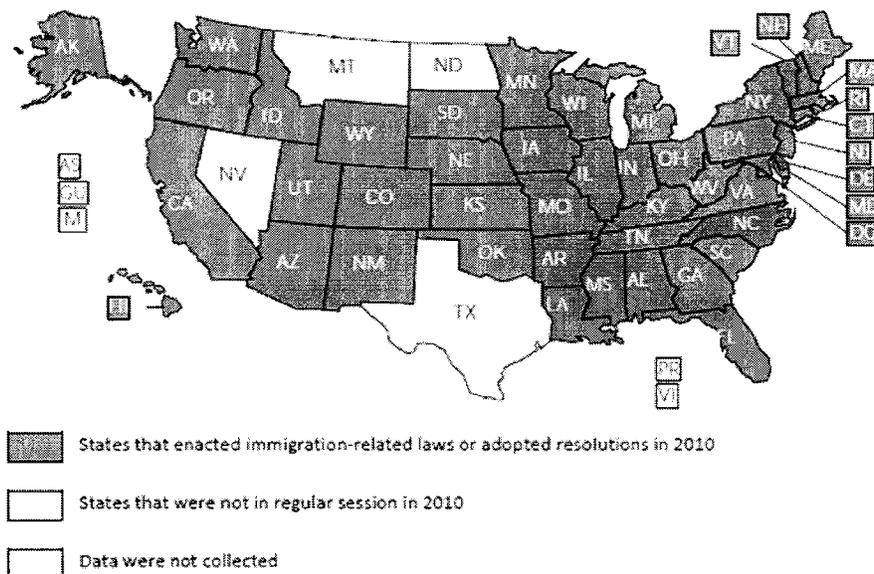
**Summaries of all enacted laws and resolutions are available online in a searchable database and in a chart sorted alphabetically by state and by category at [www.ncsl.org/programs/immig](http://www.ncsl.org/programs/immig).**

#### Methodology

This report summarizes laws and resolutions enacted between Jan. 1 and Dec. 31, 2010. Legislative proposals included in this overview address legal immigrants, migrant and seasonal workers, refugees or unauthorized immigrants. Terms

used in this report by and large reflect the terms used in state legislation. In some state legislative language, unauthorized immigrants are also described as illegal or undocumented immigrants or aliens.

STATE IMMIGRATION-RELATED LAWS



Source: National Conference of State Legislatures, 2010.

Enacted Laws in 2009 and 2010

	2009	2009	2010	2010
Main Topics	Number of Laws Enacted	Number of States	Number of Laws Enacted	Number of States
Budgets	-	-	49	29
Education	27	13	17	11
Employment	21	12	27	20
Health	28	13	17	13
Human Trafficking	16	10	8	8
ID/Driver's Licenses and Other Licenses	46	33	26	21
Law Enforcement	16	11	37	19
Miscellaneous	46	26	20	15
Omnibus/Multi-Issue Measures	3	3	2	1
Public Benefits	15	13	9	8
Voting	4	3	6	3
<b>Total</b>	<b>222</b>	<b>46</b>	<b>218</b>	<b>43</b>
<b>Resolutions</b>	<b>131</b>	<b>27</b>	<b>138</b>	<b>27</b>
<b>Total laws and resolutions passed/adopted by state</b>	353	46	356	47

legislatures				
Vetoed by governors	20	3	10	2
<b>Total enacted laws and resolutions</b>	<b>333</b>		<b>346</b>	

**Please note:** Beginning in 2010, budget laws were removed from the miscellaneous category, while legal services laws have been combined with law enforcement. Some laws may have been reclassified since the July report or, upon further research, found not to include new legislative language related to immigrants.

Source: NCSL, *Immigrant Policy Project, 2010*.

The full report of state laws is available online at <http://www.ncsl.org/default.aspx?tabid=19897> by state and by category. NCSL also offers a searchable database for 2009 and 2010 enacted laws and resolutions at <http://www.ncsl.org/default.aspx?TabId=19209>. The brief summary below describes the categories and provides examples of laws enacted in 2010. Click here for [PDF version of this report](#).

### **BUDGET (49)**

Forty-nine budget laws were enacted in 28 states and D.C.: Arizona, Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia and Washington.

These laws typically appropriate funds for refugee resettlement programs, migrant health or education, law enforcement, or naturalization assistance programs. (Note this new category, beginning in 2010, was formerly included in the miscellaneous category.)

*Example:* Michigan H 5875 requires the department of agriculture to apply for all federal funds for which it is eligible that can be used to support the migrant labor housing program.

### **EDUCATION (17)**

Seventeen laws passed in 11 states: Arizona, California, Colorado, Florida, Illinois, Ohio, Oklahoma, Oregon, Utah, Washington and West Virginia. Four bills were vetoed.

These laws generally address in-state tuition eligibility, financial assistance, and English language acquisition and access. Some laws seek to disaggregate educational data for immigrants, migrants or certain ethnic groups or target at-risk groups including migrants or immigrants.

*Example:* Washington S 6467 allows the board of regents to grant honorary degrees for persons who were students at the university in 1942 and did not graduate because they were ordered into internment camps. The honorary degree may also be requested by a representative of deceased persons who meet these requirements.

### **EMPLOYMENT (27)**

Twenty-seven laws were enacted in 20 states: Georgia, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Mississippi, Nebraska, New Mexico, New York, Oklahoma, South Carolina, Tennessee, Utah, Virginia, Washington, Wisconsin and West Virginia.

Many of these laws address employer sanctions for hiring unauthorized workers, employment eligibility verification requirements and penalties, health and safety standards, unemployment benefits and workers' compensation.

*Example:* Iowa S 2181 grants authority to the Division of Labor Services of the Department of Workforce Development to establish guidelines, as needed, to bring Iowa's occupational safety and health standards into compliance with federal standards. The law also requires every person, firm, or corporation employing migrant laborers to obtain and keep on file a work permit for migrant laborers prior to their employment.

### **HEALTH (17)**

Seventeen laws passed in 13 states: Arizona, California, Colorado, Florida, Idaho, Illinois, Louisiana, Maryland, Minnesota, Missouri, Nebraska, Oklahoma and Tennessee. One bill was vetoed in California.

These laws generally address eligibility for health care benefits and the licensing of health care professionals and interpreters.

*Example:* Illinois H 5053 establishes a program in the Department of Public Health to ensure access to psychiatric health care services for all citizens of Illinois, with particular attention given to underserved populations and designated shortage areas, including migrant health centers.

### **HUMAN TRAFFICKING (8)**

Eight laws were enacted in eight states: Alabama, Arizona, Colorado, Kansas, Oklahoma, Utah, Vermont, and Washington.

These laws add definitions related to human trafficking, human smuggling and forced labor, create new state penalties and offer assistance to victims.

*Example:* Colorado S 140 amends provisions related to trafficking in adults and children and the coercion of involuntary servitude. It requires proof of the use of force, fraud or coercion to prove the crime of trafficking in adults and children and involuntary servitude. The definition of coercion includes withholding or threatening to destroy documents relating to a person's immigration status and threatening to notify law enforcement officials that a person is present in the United States in violation of federal immigration laws.

### **ID / DRIVER'S LICENSES AND OTHER LICENSES (26)**

Twenty-six laws passed in 21 states: Alabama, Arizona, California, Connecticut, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, South Carolina, South Dakota, Tennessee and Utah. Two bills were vetoed.

These laws relate to documentation and eligibility requirements for IDs and driver's licenses, birth certificates for foreign adoptions, professional licenses, and firearm and hunting/fishing licenses.

*Example:* South Dakota H 1107 provides for the renewal of certain nonresident commercial driver licenses, requires evidence that the applicant is authorized to stay in the United States to renew a nonresident commercial driver license, and allows the Department of Transportation to renew a nonresident commercial driver license without a skills or knowledge test if the license has been expired for a period less than one year.

### **LAW ENFORCEMENT (37)**

Thirty-seven laws passed in 19 states: Alabama, Arizona, California, Connecticut, Florida, Georgia, Illinois, Kansas, Louisiana, Maryland, Michigan, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia and Wyoming. One bill was vetoed.

These laws generally deal with collaboration with federal law enforcement agencies, processes for immigrant detention, prevention of child abduction, and responsibilities of law enforcement officers.

*Example:* Tennessee H 2995, the Uniform Child Abduction Prevention Act, authorizes a court to order child abduction prevention measures in a child custody proceeding and allows a parent or guardian to petition to prevent a child abduction if there is a credible risk. Factors that can be considered by the court in determining the risk of abduction include: a lack of strong familial, financial, emotional, or cultural ties to the state or the United States; strong familial, financial, emotional, or cultural ties to another state or country; the petitioner or respondent is likely to take the child to a country that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and poses concerns due to safety, compliance or other issues; or a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally.

### **MISCELLANEOUS (20)**

Twenty laws were passed by legislatures in 15 states: Alabama, California, Florida, Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, New Hampshire, Rhode Island, Utah, Virginia, Washington and Wisconsin. One bill was vetoed.

These laws generally address immigration-related commissions and studies or make technical corrections to names of immigration agencies or offices. This section no longer includes budget and appropriation laws referring to non-citizens.

*Example:* Illinois H 5428 makes technical changes to the Illinois Adoption Act and updates references to the U.S. Immigration and Naturalization Service to the U.S. Citizenship and Immigration Services.

### **OMNIBUS / MULTI-ISSUE LEGISLATION (2)**

Arizona enacted two laws (SB 1070 and HB 2162). SB 1070, enacted on April 23, was amended a week later by HB 2162. Key provisions include: a requirement that law enforcement reasonably attempt to determine the immigration status of a person involved in a lawful stop, detention or arrest in the enforcement of any other local or state law or ordinance where reasonable suspicion exists that the person is an alien and is unlawfully present, except if it may hinder or obstruct an investigation; allows an officer to make a warrantless arrest if the person to be arrested has committed any offense that makes the person removable from the United States; allows state residents to sue state and local agencies for noncompliance; establishes a state violation for failure to carry an alien registration document; and makes it unlawful for an unauthorized alien to knowingly apply for or perform work in Arizona. More information on these Arizona laws can be found at <http://www.ncsl.org/default.aspx?tabid=20263>.

### **PUBLIC BENEFITS (9)**

Nine laws were enacted in seven states and D.C.: Arizona, California, Colorado, District of Columbia, Illinois, Massachusetts, Minnesota, and Washington.

These laws typically relate to individuals and their eligibility to receive public benefits, such as requiring proof of lawful presence in the United States before receiving certain public benefits. Some require state agencies to use certain eligibility verification systems or to deny public benefits to unauthorized immigrants. Some make funds available for certain immigrants and refugees.

*Example:* Minnesota S 1770 establishes the Ladder Out of Poverty Task Force and ensures that immigrants, along with many other groups, will have the opportunity to meet with and present views to the task force.

### **VOTING (6)**

Six laws passed in three states: Alaska, California and Utah. One bill was vetoed.

These laws address regulations regarding voter registration, including verification of citizenship. They also pertain to the ability of immigrants to vote for public office and donate to campaigns.

*Example:* Utah S 53 defines the circumstances under which someone can challenge the validity of a person's right to vote, including claims the person is not a citizen of the United States.

### **RESOLUTIONS (138)**

One hundred thirty-eight resolutions and memorials were adopted in 27 states: Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wisconsin.

Most of these resolutions and memorials celebrate America's ethnic heritage and others applaud programs or individuals that serve refugees or immigrants. Fifteen of the resolutions urge Congress to: fund E-Verify, reimburse states for emergency health to undocumented aliens, enact comprehensive immigration reform, enact the International Violence Against Women Act, secure borders, fund services for migrants, pass Filipino family reunification, address refugees in Darfur and Chad, and provide Haitians with temporary protected status.

*Example:* Colorado HJR 1003 memorializes the Haiti earthquake tragedy of Jan. 12, 2010 by extending sympathies to those affected by the tragedy, urging Coloradans to contribute to both immediate relief efforts and long-term assistance, and encouraging the U.S. Department of State and all other relevant agencies to assist with the immediate evacuation of orphans who are in the process of being adopted by Colorado families.



#### *Prepared by:*

Gillian Johnston, Fall Fellow, and  
Ann Morse, Program Director, Immigrant Policy Project, NCSL  
[www.ncsl.org/programs/immig](http://www.ncsl.org/programs/immig)

#### *Reviewers:*

Sheri Steisel, Senior Federal Affairs Counsel, NCSL  
Molly Ramdsell, Director, Washington D.C. Office, NCSL  
Neal Osten, Director, Washington D.C. Office, NCSL

*This report was made possible (in part) by a grant from Carnegie Corporation of New York. The statements made and views expressed are solely the responsibility of NCSL.*

**Source:** National Conference of State Legislatures, 2010.

**Denver Office**

Tel: 303-364-7700 | Fax: 303-364-7800 | 7700  
East First Place | Denver, CO 80230

**Washington Office**

Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol  
Street, N.W., Suite 515 | Washington, D.C. 20001

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